



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 31, 2011 REPORT NO. 11-082

ATTENTION: Public Safety and Neighborhood Services Committee
Agenda of June 08, 2011

SUBJECT: Informational Report from the San Diego Police Department
Regarding the Tobacco Retailer Ordinance Update

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

BACKGROUND

On November 15, 2007, the San Diego City Council added Sections 33.4501 through 33.4519 to the San Diego Municipal Code regarding the permits for Tobacco Products sales. The purpose was to regulate and license retail businesses that sold or distributed tobacco products. The permit fees would be used to enforce laws aimed at discouraging the sales of tobacco products to juveniles. It was the intent of this section to have all costs associated with the administration and enforcement to be borne by the retailer applicants and permit holders.

Part of the ordinance states that the San Diego Police Department will present a report to the committee on the status of the Tobacco Ordinance upon request.

ADMINISTRATION INFORMATION

The San Diego Police Department has identified 1,194 businesses that sell or distribute tobacco products in the City of San Diego. (California State Board of Equalization)

Since our last reporting out (June, 2010) the Department has been able to gain compliance from 1,026 of the businesses within the City of San Diego. The Department has continued to work with the other 168 business owners to confirm their status and gain compliance. In the continuing efforts to maintain compliance, the Department has simplified the application by reducing it from four pages down to two pages.

INSPECTIONS AND ENFORCEMENT

The San Diego Police Department's Vice Permits and Licensing office conducted over 50 overt field inspections from December, 2009 to December, 2010. These inspections were used as an opportunity to educate and gain voluntary compliance from the business owners.

In addition to the overt inspections, the San Diego Police Department Vice Permits and Licensing Police Officers also conducted five undercover juvenile decoy operations in the City of San Diego. A total of 60 covert (undercover) inspections were completed during these operations. All of these inspections were used to educate the business owners. The results are as follows:

Date	Number of Inspections	Results	Council Districts
04/08/10	12	No Arrest	1,5,2,8
06/03/10	14	No Arrest	6,3,7
08/05/10	15	No Arrest	3,4,8
10/07/10	9	1 Warning	2,6,7
12/09/10	10	1 Arrest	1,4,5

Note: The warning was followed up with a letter and personal contact to ensure the needed corrections were made. The arrest resulted in a guilty plea that was reduced to a 415(2) PC (infraction) and a fine of \$239.00.

The location of the inspection sites were randomly selected by Council District and included all types and sizes of stores selling tobacco products. Four of the operations were educational and resulted in one warning. One of the operations was zero tolerance enforcement and resulted in one misdemeanor citation being issued.

In an effort to lower our operational cost, we conducted all of our inspections during normal working hours and used volunteers for the decoy operations. Therefore we did not incur any overtime.


ESTIMATED ILLEGAL SALES RATE

Based on the 60 undercover inspections that resulted in 2 violations, the estimated rate of illegal sales to juveniles is 3.3%. This is down from 26.7% last year.

FEES AND FINES

In 2010, the Police Department Permit and Licensing Unit collected \$118,044 in regulatory fees and \$14,352 in application fees for a total of \$132,396. This is consistent with the fees collected last year. All monies were sent to the City's general fund.

Respectfully submitted,



William M. Lansdowne
Chief of Police